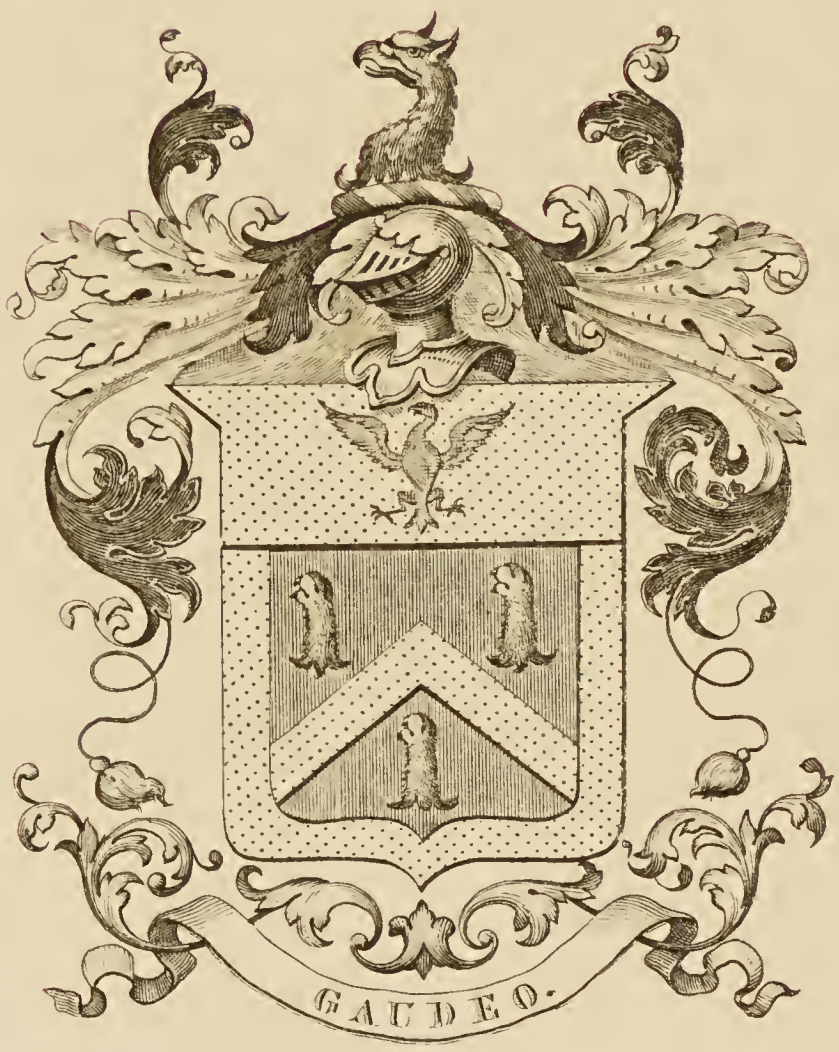



John Carter Brown.

# SOME STRICTURES

ON THE LATE

# OCCURRENCES

IN

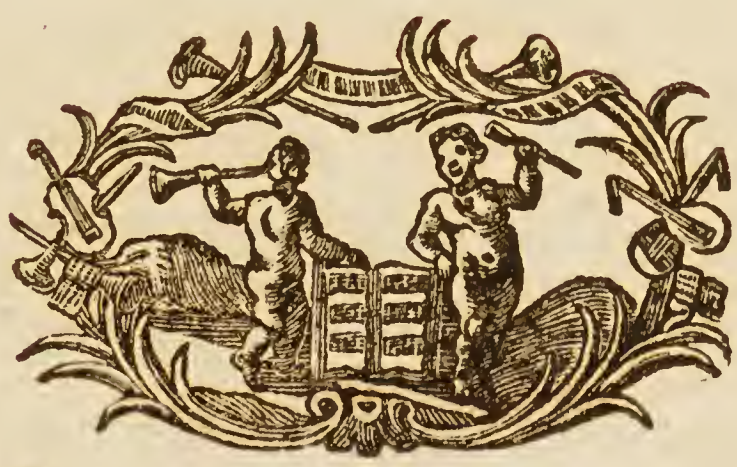
# NORTH AMERICA.

(Price Six-Pence.)

No 31.

# SOME STRICTURES
## ON THE LATE
# OCCURRENCES
## IN
# NORTH AMERICA.

*Vetant leges ſacratæ, vetant duodecim tabulæ, leges privatis hominibus irrogari, id enim eſt privilegium.*
CICERO pro domo.



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# SOME STRICTURES ON THE LATE OCCURRENCES IN NORTH AMERICA.

INTERESTED in the prosperity of our Northern Colonies in America, I observe, and to add impartially, must confess, with the most feeling concern, that all the distresses and calamities, which the colonies are now drawing, or may draw on themselves, their commerce and correspondents, throughout the British dominions, will lie entirely at their own doors, imputable

able only to their unnatural oppo-ſition to the laws of their mother country, to which they are moſt unqueſtionably ameneable.

Granting for argument's ſake, that ſome of the provinces can plead an immunity, or an excluſive right to tax themſelves, from the ſilence of their charters, as to parliamentary juriſdiction, which, by the bye, amounts to no more than a neutral evidence. Yet it is generally under-ſtood from the nature of our con-ſtitution, that charters bind only the Royal grantors and their ſuc-ceſſors, ſo far as their power goes, but can ſeldom, if ever, preclude a legiſlative interpoſition, eſpecially, with the Royal concurrence.

Becauſe

Becauſe if they could preclude, the legiſlative and executive power would then reſide, ſucceſſively, in the Crown, without any right of revoking former grants; and thus the privy ſeal would prove, in the end, a ſtronger and more compendious legiſlation than the three eſtates of Parliament. A doctrine this, however odious to an Engliſh ear, is nevertheleſs a fair deduction of thoſe arguments that the coloniſts urge in their behalf.

Our hiſtories abound with innumerable inſtances wherein the Parliament hath reaſſumed the Royal donations, whenever they judged ſuch to be a public grievance: And

pa-

patents have often been the objects of parliamentary diſcuſſion and revocation. If we look back to the power of parliament, in new modelling the conſtitution, the ſucceſſion to the crown, in changing the Roman and eſtabliſhing the proteſtant religion, and laſtly in uniting the kingdom of Scotland with that of England, can we give one oſtenſible reaſon why the ſame power ſhould not operate as forcibly in the American empire?

That known and acknowledged neceſſity, which the provincial acts require to give them a permanent validity; the royal ſanction at home, demonſtrates, beyond all poſſible doubts,

doubts, how little the provinces do, or can enjoy an independent right to eſtabliſh their own laws.

But in what light ſhall we look on thoſe provinces whoſe charters expreſsly reſerve the future interpoſition of parliament? Can they urge the leaſt plea of ignorance, or the leaſt ſhadow of common ſenſe to juſtify their conduct? No. Rejection in them is wilful blindneſs, and a ſtubborn diſobedience.

In the firſt charter of Virginia granted by James the 1ſt, April 10, 1606, article the 3d, it is expreſſed and ordered, "That a council in "England ſhall have the ſuperior

" managing and direction *only* of
" all matters that ſhall or may con-
" cern the government as well of
" the ſaid ſeveral colonies, as of
" and for any other part or place
" within the aforeſaid precincts of
" four and thirty and five and forty
" degrees abovementioned."

In the ſecond charter of the ſame king, dated March 23, 1609, in article 8 and 9, reference being had to a former patent, it is repeated and confirmed, " That *a perpetual* " *council ſhould be reſident in Eng-* " *land* for the better government " and adminiſtration of the ſaid " plantation."

Thus

Thus was Virginia, in her infancy, made ſubject to the controul of her mother country.

In the charter granted to lord Baltimore for Maryland, dated 28 June 1632, by Charles the 1ſt, he expreſsly reſerves to himſelf and his ſucceſſors the "*ſovereign dominion.*"

Where the ſovereign dominion is reſerved to the crown, does not the republic participate in its legiſlative branch?

In the charter of Penſylvania, which is the laſt that I ſhall trouble either the reader or myſelf with, there is an exception to ſuch cuſ-

toms and impoſitions, as by act of parliament are and ſhall be appointed.

Dr. Blackſtone, in his excellent treatiſe of the countries ſubject to the laws of England, ſpeaking of our American plantations, ſays, " that they are ſubject however to " the controul of the parliament, " though like Ireland Man, and " the reſt not bound by any acts of " parliament unleſs particularly " named." And adds a little lower; " But it is particularly decla- " red by ſtatute 7 and 8 of William " the 3d. That all laws, bye laws, " uſages and cuſtoms, which ſhall " be in practice in any of the plan- " tations, repugnant to any laws made

" made or *to be made* in this king-
" dom relative to the ſaid planta-
" tions, ſhall be void and of none
" effect."

The provincial lawyers, would think I paid an ill compliment to their knowledge, ſhould I tax them with being ignorant of this act. But in allowing them that knowledge, does not their integrity come ſomewhat in queſtion?

Can a phyſician, ſeeing another man going ignorantly into a place of infection, and not warning him of the danger, becauſe his advice was not aſked, or himſelf feed, value himſelf, either, for humanity or probity?

Ought

Ought not the lawyers, in their respective provinces to have reasoned with, and to have better informed their deluded countrymen, as governor Barnard did, in a cool, rational, and affectionate remonstrance. The wisdom and spirit of whose conduct, as it eclipses, so it shames the behaviour of other governors.

In a masterly manner he did his duty, by pointing out to the people entrusted to his charge, those rocks on which they were precipitately running: and although he did not succeed, his address will remain a bright example, how future governors should act in similar conjunctures.

The

The power that a lawleſs few may uſurp to defeat the acts of the legal whole, if that antitheſis of diſtinction may be allowed, is ſome reſemblance of the tyranny which Cicero, feelingly calls in his own caſe, *vim crudelitatem privilegii.* And is a violence never to be uſed, or indeed, to be defended, but when there is a diſſolution of government, on juſtifiable occaſions.

I knew a certain province in North America, where the internal laws of the country, and the adminiſtration of juſtice could not operate with effect, from the imbecillity of the civil power; that is to ſay, that when owners of eſtates have recovered them by law,

from

from ſettlers, or intruders on them, the latter have been too powerful and numerous to be ouſted by the proper officers; attempting to take poſſeſſion for the legal proprietors; and I alſo remember, that a chief juſtice, once came over here to ſolicit the aſſiſtance of the then miniſtry, for the better enforcement of the laws, but with little ſucceſs.

For it has been the fatality of our miniſters ſupinely to neglect all conſideration for the police of North America, and to intereſt themſelves in her affairs, no farther than as they came before them, in the ordinary courſe to the king and council, from the report of the board of trade.

But

But we muſt here except thoſe arrangements, which have been made ſince the laſt war.

A few years ago, a certain chief juſtice appointed by the crown, to preſide in a court of law, in one of our American colonies, was obliged to return home, becauſe the aſſembly would not aſſign him a ſalary, though there could be no objection to him, as to his qualifications; which were thoſe of a polite ſcholar, and his knowledge in his profeſſion was not perhaps, inferior to men of more figure and ſucceſs, nor did I ever hear any thing to his diſhonour, in his practice at the bar here.

The unfortunate man knows not from what hands he receives this little piece of juſtice.

I have produced theſe facts, and inſtances of the refractory behaviour of the coloniſts, and to ſhew, that, if more attention is not had to their conduct, we ſhall ſuffer them to grow like froward children, too undutiful to be reclaimed by maternal tenderneſs.

The reader obviouſly ſees, that the writer of theſe ſtrictures ſtickles for no party, but the ſovereignty of parliament, *Nullius addictus juare in verba magiſtri*, is the rule by which he ſteers his political judgment,

judgment, to the beſt of his capacity.

He feels his property affected by this act, and ſubmits to it, as a good ſubject and citizen ought to do, peaceably, but with a thorough conviction, that it may be altered and amended, if not to the ſatiſfaction, yet for the advantage both of England, and her colonies.

The act is deficient in many points, and in none more than in that *coup d'eclât* of financiering œconomy, the remittance of the money, raiſed by the tax, into the treaſury of England, and its return again into the colonies, to anſwer

the purpoſes for which it was there levied.

There is no great reaſon to dread the ſeduction of the coloniſts, or that diverſion of trade, with which they threaten us. Anger has often made poets and authors, but I never knew, that it has made either a tradeſman or a manufacturer. While the inhabitants of North America are fewer, and labour is of courſe, much dearer; we need not fear a rivalſhip in the convenient ornaments, or elegant neceſſaries of life. but whenever ſhe ſhall equal, or overmatch us in numbers, I do not imagine, that ſhe will trade with us from any motive of kindneſs or friendſhip, but from that principle,

which

which is the baſis of all commerce, reciprocal benefit, between nation and nation.

I ſhall conclude with a paſſage from the idler, No. 81, where the Indians are repreſented, as encouraging one another to ſeize that advantage of recovering their native country, which the European quarrels about it were then putting into their own hands; and I ſincerely wiſh, that the author's prophetic ſpirit may not be attended with Ceſſandra's fate, truth and incredulity, in caſe our own animoſities ſhould not ſubſide, and harmony ſucceed to conciliate the breach, and heal the rupture.

" But the time is now perhaps
" approaching, when the pride of
" uſurpation ſhall be cruſhed, and
" the cruelties of invaſion ſhall be
" revenged. The ſons of rapacity
" have now drawn their ſwords
" upon each other, and referred
" their claims to the deciſion of
" war, let us look unconcerned up-
" on the ſlaughter, and remem-
" ber that the death of every Eu-
" ropean, delivers the country from
" a tyrant and a robber. Let us
" endeavour in the mean time, to
" learn their diſcipline, and to forge
" their weapons, and when they
" ſhall be weakned with mutual
ſlaugh-

" ſlaughter, let us ruſh down upon
" them, force their remains to take
" ſhelter in their ſhips, and reign
" once more in our native country."

FINIS.